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PATENT DEPARTMENT
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OFFICE OF PETITIONS

In re Application of :
Jeppesen et al. : DECISION ON PETITION
Application No. 10/692,561 :
Filed: October 24, 2003 :
Atty Docket No. 6598.200-US :

This is a decision on the PETITION FOR WITHDRAWAL OF A HOLDING OF ABANDONMENT UNDER 37 CFR 1.181(a) filed August 29, 2006.

The petition under § 1.181 is **DISMISSED**.

Any request for reconsideration must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are not permitted. See 1.181(f).

Alternatively, applicant may seek revival under the provisions of 37 CFR 1.137. Such a request should include a cover letter entitled "Petition under 37 C.F.R. §1.137(a)" or "Petition under 37 C.F.R. §1.137(b)," as appropriate.

The above-identified application became abandoned for failure to file a reply to the non-final Office action mailed November 23, 2005. The Office action set a shortened statutory period for reply of three (3) months, with extensions of time obtainable under § 1.136(a). No reply considered timely filed and no extension of time considered obtained, the application became abandoned effective February 24, 2006. A courtesy Notice of Abandonment was mailed on July 6, 2006.

Applicants petition for the withdrawal of the holding of abandonment on the basis that applicant attempted to send by facsimile transmission a Request for Extension of Time for three

(3) months to permit timely filing of a continuing application. Applicants acknowledge that the facsimile transmission did not complete and send a copy of the facsimile error report.

As stated in 37 CFR 1.6(d) *Facsimile transmission*,

The receipt date accorded to the correspondence will be the date on which the complete transmission is received in the United States Patent and Trademark Office, unless that date is a Saturday, Sunday, or Federal holiday within the District of Columbia. See § 1.6(a)(3).

It is undisputed that in this instance no such transmission (complete or otherwise) of the extension of time as attempted to be filed in the Office on May 23, 2006 was completed. Petitioner's transmission confirmation clearly states "TX FUNCTION WAS NOT COMPLETED" and "PAGES SENT 0." The requirements of 37 CFR 1.6(d) to have the extension of time considered received in the Office on May 23, 2006 were not met. No extension of time is considered filed on May 23, 2006.

It is noted that even if the transmission had been completed the application would still properly be abandoned as the transmission only included an extension of time. Submission of a proper reply to the non-final Office action was required to avoid abandonment of the application. Thus, the issue here really is whether an extension of time should be considered received in the Office on May 23, 2006 such that the continuing application filed May 23, 2006 would have copendency with the instant application. As the extension of time is not considered received May 23, 2006, there is no copendency.

Applicants are not precluded from filing a petition pursuant to 37 CFR 1.137 to revive this application for purposes of continuity with the continuing application.

No fee is required on petition under § 1.181.

Further, as no extension of time may be obtained after the proper abandonment of an application, the extension of time fee submitted on petition was not charged, as authorized. Likewise, payment of an extension of time fee is not required on petition to revive.

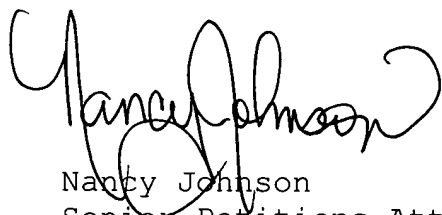
Further correspondence with respect to this decision should be addressed as follows:

By mail: Mail Stop Petition
 Commissioner for Patents
 P.O. Box 1450
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By fax: (571) 273-8300
 ATTN: Office of Petitions

By hand: Customer Service Window
 Randolph Building
 401 Dulany Street
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Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

A handwritten signature in black ink, appearing to read "Nancy Johnson", with a large, stylized flourish at the end.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions